

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1431

January 26, 1962

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STATE OF NEW JERSEY  
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1431

January 26, 1962

1. APPELLATE DECISIONS - TORTELLA v. PAULSBORO.

Frank G. Tortella, t/a	)	
Frank and Babe's Cafe,	)	ON APPEAL
	)	
Appellant,	)	CONCLUSIONS
	)	
v.	)	AND
	)	
Mayor and Council of the	)	ORDER
Borough of Paulsboro,	)	
	)	
Respondent.	)	

-----  
Crispin, Caulfield & Zamal, Esqs., by Albert J. Zamal, Esq.,  
Attorneys for Appellant.  
Joseph Mennite, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent which, on August 1, 1961, denied appellant's application for a place-to-place transfer of Plenary Retail Consumption License C-14 from premises 1110 Delaware Street to premises 698 Delaware Street, Paulsboro.

"Appellant, in his petition of appeal, alleges that respondent's action constituted an abuse of discretion.

"Respondent, in its answer, denies appellant's allegation and contends that its action was predicated upon the following factors: (a) the transfer would locate the license in premises within 200 feet of a public high school, in violation of R.S. 33:1-76; (b) parking facilities at the proposed site are inadequate and traffic hazards would be aggravated; (c) there is no need or necessity for a transfer; (d) the transfer would violate the Borough's Zoning Ordinance.

"When the matter came on for hearing, the following exhibits were received in evidence by stipulation: engineer's sketch of location of Capitol and Delaware Streets (Exhibit R-1); nine photographs (Exhibit R-2); copy of minutes of the August 1, 1961 meeting of the Borough Council (Exhibit R-3); photostatic copy of the Borough's tax map (Exhibit R-4); sketches of the intended renovations to be made to the exterior and interior of the proposed premises (Exhibit R-5); petition containing the names of 747 objectors to the transfer of the license (Exhibit R-6); copy of letter dated July 31, 1961 addressed to the Mayor and Council by the Board of Education (Exhibit R-7); letter dated September 27, 1961 addressed 'To Whom it May Concern' by Frank Kralish (Exhibit R-8) and petition of the Paulsboro Woman's Club representing 109 members in good standing objecting to the granting of appellant's application (Exhibit R-9).

"Frank Tortella, the appellant, appeared on his own behalf and testified in substance that his father is the owner of premises 698 Delaware Street; that the exterior and interior of the building are being remodeled; that the front entrance to the proposed premises on Delaware Street will be completely blocked off and the entrance thereto put in the rear of the building; that adjoining the building in the rear is a vacant lot 90 feet by 60 feet, on which 20 or 30 cars can be parked and that there are adequate parking facilities in the vicinity of the proposed premises. On cross-examination, he stated that he is putting the entrance in the rear of the building to accommodate patrons and not for the purpose of complying with the statutory 200-foot requirement. Appellant then rested.

"Rev. Charles Noble, Jr., testified in substance, that he is the pastor of the Taylor Memorial Baptist Church which is situated on the northeast corner of Seventh Street and Greenwich Avenue facing appellant's proposed premises; that he is personally opposed to the transfer because of the proximity of the church and high school to the proposed site and that the transfer would have a deleterious influence on the students attending the high school and on the members of his congregation, and that he conveyed his feelings and those of his congregation to the governing body.

"George W. Lamborne testified that he was opposed to the transfer 'politically, morally and religiously'.

"Harry Merrill testified that he is and has always been opposed to 'saloons'; that he and Mr. Lamborne took some of the petitions around and got a 'very fine response'; that 'in the Borough which has a population of 8100, there are 18 saloons'; that there is a 'saloon' within a half block of appellant's proposed premises; that traffic hazards will be increased and that there is no need or necessity for another liquor establishment so near the school and the church.

"Russell Stetser testified that he is vice-president of the Paulsboro Board of Education; that on July 31, 1961 the president of said Board wrote the governing body of Paulsboro objecting to the granting of appellant's application and that the letter was withdrawn prior to respondent's meeting on August 1, 1961, at which appellant's application for transfer was denied.

"Frederick Cremer, principal of Paulsboro High School, testified that a tavern so close to 'the physical limits of the high school where public events are held during the day and during the evening....would not be a wholesome influence on our student body.'

"John Bodnarik testified that he is the superintendent of the Paulsboro schools; that he objects to the transfer because 'the whole educational program in which I am involved would dictate to me that I must oppose it.'

"Joan S. Reiner, Hallie Stewart, Mary Jane Wilson, Rev. Arthur King, Jr., Pastor of the First United Presbyterian Church which is located about three blocks distant from the proposed premises; Doris Whiteside, representing the Billingsport Parent-Teachers' Association; Anna E. Sammons, representing the Paulsboro Tax Association and Elva English, corresponding secretary of the Paulsboro Woman's Club, also appeared as objectors to the granting of appellant's application. Their testimony is substantially the same as that testified to by the previous witnesses.

"Carlton Kandle testified that he is a member of the Borough Council; that he voted to deny appellant's application because of the public sentiment against it and because of the

traffic conditions in the area and the proximity of the proposed premises to the high school.

"William Bonner testified that he is a member of the Borough Council and that he voted against appellant's application because the majority of the Borough's citizens were opposed to the transfer and because of the proximity of the proposed premises to the high school and church.

"Charles Ridinger testified that he is a member of the Borough Council and that his action in voting against appellant's application was based upon a consideration of the opinions expressed by over 100 persons who called him at his home and at his place of business, the traffic hazards which would ensue because of the inadequate parking facilities in the area and the proximity of the proposed site to the high school.

"David Rosen testified that he is a member of the Borough Council; that he voted against the granting of appellant's application because of the proximity of the proposed premises to the school and church; that he is on the building committee and that the only permit issued to appellant by the building inspector, so far as he knew, was for the renovation of the apartment over the premises sought to be licensed.

"Louis Damminger, Jr., testified that he is the Mayor of Paulsboro; that he didn't vote on appellant's application but feels that it should not be granted because of the inadequate parking facilities in the area and the proximity of the proposed premises to the school and the church.

"Herman Hanel testified that he is the chief of police of the Borough; that at the present time the traffic problems in the high school area are serious and that another liquor establishment on Delaware Street which is 'the main business street going through the town' would not improve conditions. He testified further that he had examined the proposed premises and found that the lot in the rear would accommodate eight cars allowing for ingress and egress of the vehicles.

"William Milsted testified that he is the Borough Clerk; that there are 18 plenary retail consumption licenses, two plenary retail distribution licenses and five club licenses presently operating in the Borough and that the proposed premises are in Zone C-1 commercial.

"James T. Lowe testified that he is employed by John G. Reutter, the Borough Engineer; that the sketch (Exhibit R-1) was prepared under his supervision; that the distance from the high school entrance going westerly along Delaware Street to the intersection of Capitol Street and proceeding westerly along the northerly side of Capitol Street to a point opposite the rear steps of the proposed premises, totals 195.75 feet.

"Reviewing the evidence adduced herein, it is apparent that respondent's action in denying appellant's application was predicated primarily upon its consideration of the proximity of the proposed licensed premises to the Paulsboro High School and the Taylor Memorial Church.

"R.S. 33:1-76 provides 'that no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church or public school house' and that 'said two hundred feet shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of such church or school to the nearest entrance of the premises sought to be licensed.'

"Since the aim of the statute is to give maximum protection to churches and schools, the distance between them and proposed licensed premises should be measured in accordance with the rule enunciated by the late Commissioner Burnett in Aldarelli v. Asbury Park, Bulletin 186, Item 12, wherein he said, 'The rule hereafter will be that the measurement will be made \*\*\* along the side of walls and street lines nearest to church (or school) and tavern, thus to get the shortest distance between them. The course will commence and terminate at the nearest point on the nearest doors of the respective premises. That is, the place where the pedestrian would leave or enter, taking the shortest course, if the door were open.'

"Over the years, the Directors have given a practical construction of the aforesaid rule in stating that the measurement should be from the nearest entrance to the nearest entrance that pedestrians would use in entering the properties in question. See Presbyterian Church of Livingston v. Division of Alcoholic Beverage Control, 53 N.J. Super. 271.

"The Engineer's sketches submitted to the Borough Council and received in evidence herein as Exhibit R-5, shows that the proposed licensed building has a frontage of 56.80 feet along Delaware Street and a depth of 50 feet along Capitol Street; that the building sets back approximately 18 feet from the inner line of the sidewalk on Delaware Street and that the property in front of said building is paved with concrete as is the sidewalk adjacent to it; that a 60-foot lot separates the proposed licensed premises from the Paulsboro High School property and that the entrance to said high school commences on Delaware Street at the post of a cyclone fence which separates said lot from said high school property. The sketch also shows that the measurements were made from said high school entrance southerly along the center of the sidewalk on the westerly side of Delaware Street to the concrete pavement in front of the proposed licensed building and then describing an arc to the center of the sidewalk on the northerly side of Capitol Street and thence continuing westerly along the center of the sidewalk to a point approximately 18 feet beyond the southwest corner of said building which the sketch shows is 200 feet from the point of beginning.

"It appears from the engineer's sketch that the distance between the entrance to the high school and the entrance to the proposed licensed premises is less than the required 200 feet. However, even if the distance between these respective entrances is slightly more than 200 feet, it is obvious that appellant's objective in putting the entrance at the rear of the proposed licensed building was not solicitude for his intended patrons, but rather to gain the footage required to comply with the provisions of the statute and the rules construing them. See St. Mary's Greek Catholic Church v. Manville and Buczkowski, Bulletin 187, Item 1.

"No measurements were offered respecting the distance between the Taylor Memorial Baptist Church and the proposed licensed premises. However, it is apparent from the photographs marked 5 and 7 of Exhibit R-2 and the tax map, Exhibit R-4, that the aforesaid church is in close proximity to the proposed licensed premises. As was said in McDonald v. Clayton, Bulletin 161, Item 5: 'Issuing authorities have a right to decline licenses for premises reasonably considered by them as being too near churches or schools but, nevertheless beyond two hundred feet therefrom.'

"In view of the aforesaid, I conclude that appellant has failed to establish that the action of the respondent issuing

authority was erroneous, and I recommend that the action of said authority in denying appellant's application for a place-to-place transfer be affirmed."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the proceedings, exhibits, briefs submitted by the attorneys for the respective parties and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 14th day of December 1961,

ORDERED that the action of respondent Mayor and Council be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
  
Three Coins Inc.  
t/a Three Coins Cafe  
1008 Shore Road  
Somers Point, New Jersey,  
  
Holder of Plenary Retail Consumption License C-12, issued by the Common Council of the City of Somers Point.

CONCLUSIONS  
  
AND  
  
ORDER

Augustus S. Goetz, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents, in violation of Rule 27 of State Regulation No. 20.

On August 10, 1961, an ABC agent tested defendant's open stock of liquors and seized a large number of bottles of whiskey for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of twenty-seven of the seized bottles varied substantially in acids, solids and color when compared with the genuine products of the brands analyzed.

Defendant has no prior adjudicated record. By way of mitigation of the penalty to be imposed, defendant's attorney submitted a memorandum setting forth the financial difficulties of the corporate licensee and the advanced years and ill health of the principal stockholder, a widow, who has invested a substantial amount in the business of defendant. I have carefully considered the memorandum and the documentary proof accompanying it.

It appears that the licensed premises are under a contract of sale, and I have been assured that none of the stockholders or officers

of defendant will have any further interest in the licensed premises when the sale is consummated.

Although the violation charged would warrant the imposition of the maximum penalty, under the circumstances presented I shall, in this case, suspend defendant's license for a period of fifty days. Cf. Re Penn Brook Inn, Inc., Bulletin 1358, Item 8, and cases cited therein. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 14th day of December 1961,

ORDERED that plenary retail consumption license C-12, issued by the Common Council of the City of Somers Point to Three Coins Inc., t/a Three Coins Cafe, for premises 1008 Shore Road, Somers Point, be and the same is hereby suspended for forty-five (45) days, commencing at 3 a.m. Tuesday, January 2, 1962, and terminating at 3 a.m. Friday, February 16, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Lev's Bar, Inc.  
t/a Lev's Bar  
302-04 Stevens Street  
Camden, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

-----  
Joseph Asbell, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed in and upon its licensed premises, alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On October 16, 1961, an ABC agent tested defendant's open stock of liquor and seized ten bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of these ten bottles varied substantially in solids, acids and color when compared with the contents of genuine bottles of the same brands.

Defendant has no prior adjudicated record. I shall suspend defendant's license for thirty-five days, the minimum penalty imposed in a case involving ten bottles. Cf. Re The Lounge Inc., Bulletin 1293, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 18th day of December, 1961,

ORDERED that Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Lev's Bar, Inc., t/a Lev's Bar, for premises 302-04 Stevens Street, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., Tuesday, January 2, 1962, and terminating at 2:00 a.m., Thursday, February 1, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS - PREMISES CLOSED - EFFECTIVE DATE OF SUSPENSION TO BE FIXED BY SUBSEQUENT ORDER.

In the Matter of Disciplinary Proceedings against  
Chatterbox, Inc.  
t/a Chatterbox Bar & Grille  
Lincoln Avenue and Boardwalk  
Seaside Heights, N. J.  
Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Borough Council of the Borough of Seaside Heights.

CONCLUSIONS  
AND  
ORDER

Leo J. Berg, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On June 24, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Thomas ---, age 18, George M. ---, age 18 and John E. ---, age 19 and allowed, permitted and suffered the consumption of alcoholic beverages by such persons, in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing held herein, the Division called as its witnesses, Thomas ---, George ---, John --- and an ABC agent herein-after referred to as Agent H.

"Thomas ---, age 18 (born June 19, 1943), testified that on June 24, 1961 at about 9:00 p.m., he and George --- entered the defendant's licensed premises and that John --- entered later; that during the hour he remained on the premises, he, without being questioned as to his age, consumed two bottles of beer served to him by a bartender and that he observed George and John consume two bottles of beer served to them at the bar.

"On cross-examination, Thomas testified that prior to visiting the defendant's licensed premises, he had consumed alcoholic beverages; that stationed at the entrance to the licensed premises he observed two special officers inspecting ID cards for proofs of age; that he, immediately preceded by George, was pushed past these

officers, neither of whom observed him; that he then paid an admission fee of 75 cents, following which one of two other uniformed attendants 'stamped' his hand and he proceeded to a section of the bar nearest the entrance. Thomas further testified that he does not know whether George was questioned by any of the special officers or if any of the uniformed attendants had applied a stamp to his hand; that on the next day he was unable to identify the bartender who had served him.

"On further cross-examination, Thomas testified that, during the hour he was at the premises, he was at the bar with George and John for about forty-five minutes, during which time George stood between him and John; that he made observations of John's activities at the bar; that he does not know if John had been served any beer. Upon my questioning, Thomas stated that he had assumed that John 'had a bottle of beer'; that he did not see John drink any beer; and that he (Thomas) had paid 75 cents for each of the two bottles of beer he had consumed.

"George --- testified that he was born on June 25, 1942 and, hence, was 18 years of age at the time of the alleged violation; that on June 24, 1961 between 8:30 and 9:00 p.m., he and Thomas entered the defendant's licensed premises; that he accompanied Thomas to the bar; that each consumed a bottle of beer served to them by a bartender; that he was not questioned as to his age; that he is uncertain of the brand of beer he ordered; that he thinks it was Budweiser; that about twenty minutes later they were joined by John who stood alongside of him; that he observed John order and consume a bottle of beer, and that he remained in the premises for about two or three hours, during which time he consumed three bottles of beer.

"On cross-examination, George testified that he was in front of Thomas when he and Thomas entered the licensed premises; that at the entrance to the same he observed two special police officers checking ID cards for ages; that he was not questioned by the officers; that prior to entering the barroom, he paid an admission charge and an attendant 'stamped' his hand; that he does not remember whether he asked for a particular brand of beer; that in his statement dated June 25, 1961 to the ABC agents, 'It said I had a couple of bottles of Budweiser beer'; that he had remained at the bar for about two and a half hours; that he had consumed several bottles of beer; that he paid 75 cents per bottle; that on the afternoon of June 24th aforesaid, he had elsewhere consumed alcoholic beverages with his companions and that the next day (June 25, 1961) he was unable to identify the bartender who had served him at the licensed premises.

"John ---, age 19 (born December 5, 1941), testified that on June 24, 1961 between 8:30 p.m. and 9:00 p.m., he entered the defendant's licensed premises and went directly to the men's room, following which he joined Thomas and George; that he consumed three bottles of beer served to him by the bartender and that he was not questioned as to his age.

"On cross-examination, John testified that he had been with George and Thomas during the afternoon of June 24th aforesaid; that prior to entering the licensed premises, he abruptly left his companions on the boardwalk to retrieve his wallet from their car, and that he returned to the immediate vicinity of the licensed premises, looked into the same, observed Thomas and George at the bar and joined them.

"On further cross-examination, John testified that in his statement dated June 25, 1961 to agents of the Division, he stated that he personally had ordered a bottle of Schaefer beer for which he paid 75 cents and that he had consumed two bottles of Schaefer beer at the premises.

"Agent H testified that on June 25, 1961, after he had obtained written statements from the minors, they directed him, a local police sergeant and another ABC agent from the Seaside Park Police Headquarters to the defendant's licensed premises; that the minors identified the premises as the place where they were served the alcoholic beverages; that the group entered the premises wherein they met Mr. Edwin Olson, president of the corporate-licensee; that he informed Mr. Olson of the purpose of their visit; that Mr. Olson stated that six of the thirteen bartenders on duty on the night in question were working at the bar where the alleged violation took place; that neither John nor George identified any of these men as the bartender who had served them; that Thomas stated he thought that one of the bartenders, Wirner Petterson, had served him and that thereafter, in the presence of Mr. Olson, Thomas stated that he was not sure of this identification.

"Edwin L. Olson, on behalf of the defendant, testified that for the past twelve years he has been the president of the corporate-licensee; that the licensee has not experienced any difficulties with the Division; that the licensee never stocked Budweiser or Schaefer beer; that at the time in question the licensee only carried Rheingold and Schlitz beer, the prices of which, at the time, were 60 cents and 65 cents, respectively; that on June 25, 1961, in the presence of the agents, he 'merely looked' on the back of the hands of the minors for his stamp; that he did not see any evidence thereof and that ordinarily the stamp remains visible for at least one day.

"Mr. Olson further testified that on the night in question the section (Station one) of the bar (U-shaped) where the alleged violation took place was tended by two bartenders, John Murray and Wirner Petterson; that Murray was in charge of the station; that Petterson was unable to appear at the hearing because he was in Boston attending a council meeting on a scholarship application; that Station one is located in the front part of the premises about twelve feet from the entrance; that on Saturday nights the licensee employs four special police officers and two Seaside Heights lifeguards 'for checking ages and maintaining order'; that two of the special officers are stationed at the very entrance to the premises; that suspected minors, before being permitted to enter the premises, must prove to the satisfaction of either or both of said officers that he or she is an adult; that upon such proof the individual pays an admission charge, has the back of his or her hand stamped by a non-uniformed attendant and enters the barroom (70 feet square).

"On cross-examination, Mr. Olson testified that on the night in question between 9 and 10 p.m., there were about 150 patrons in the barroom; that he caters to patrons whose ages range from 23 to 30 to 35 years of age; that patrons enter the premises through one open door, three feet wide; that this narrow passageway prevents a rush of patrons; that on the night in question, two of the four special policemen circulated in the barroom; that the length of time that a stamp remains visible on a hand depends upon the strength of its application; that prior to June 25th aforesaid, he had not observed the minors in the licensed premises and that none of them appear to be 21 years of age.

"John H. Murray, on behalf of the defendant, testified that for the past three summers he has been employed as a bartender at the licensed premises; that on the night in question he was in charge of Station one; that about 8:30 p.m., Petterson came behind the bar on 'watch'; that prior thereto Petterson had not worked behind the bar as a bartender; that 'I was breaking him in'; that between 8:30 and 9:30 p.m., Petterson remained on 'watch' and that during said hour Petterson did not serve any patrons.

"Murray further testified that he does not remember serving any of the minors and that during his period of employment the licensee did not sell Budweiser or Schaefer beer.

"On cross-examination, Murray testified that the bar is divided into eight stations with 25 stools at each station; that on Saturday night between 11:00 p.m. and 2:30 a.m. (the height of activity) there are at least 200 patrons (seated and standing) in the premises; that patrons usually do not stand at Station one because of its proximity to the entrance of the licensed premises; that on the night in question, neither he nor Petterson was relieved by any other bartender.

"Anthony L. Shermmer, testifying for defendant, stated that for the past two years he has been employed by the licensee to check the ages of patrons and maintain order in the premises; that on the night in question he was stationed at the door leading to the licensed premises; that between 8:30 and 9:30 p.m. on June 24th aforesaid, the premises were not busy; that the premises have never been busy at that hour on a Saturday; that at the time and night in question there was no crowd or confusion at his station and that he does not remember seeing the minors pass the same.

"Shermmer further testified that patrons are unable to enter the premises without passing him and his partner; that he determines the age of an individual by examining his (or her) driver's license, or his draft card or service card, compares the description thereon with the person and questions him (or her) with respect thereto; that after a patron has been admitted to the premises, he pays an admission charge, following which a non-uniformed employee stamps his hand and that at no time was the stamp ever applied by anyone in uniform.

"On cross-examination, Shermmer testified that he remained at his post continuously from 7:00 p.m. on June 24, 1961 to 3:00 a.m. the next day; that Saturday night is the busiest of the week; that on the night in question, approximately 400 patrons entered the premises; that about 200 of these patrons were questioned as to their ages and that while patrons are being questioned as aforesaid, others are prohibited from entering the premises.

"Anthony Amato, on behalf of the defendant, testified that on June 24, 1961 he was employed by the defendant to check ID cards; that he has been similarly employed (and as a master of ceremonies) in other licensed premises for about seven to eight years; that from 8:00 p.m. on June 24th aforesaid to 3:00 a.m. the next day, he was on duty with Shermmer at the entrance to the licensed premises; that between 8:00 and 11:00 p.m. he did not leave his post and that patrons are unable to enter the premises without passing him or Shermmer.

"Thomas, on re-direct examination, testified that two bands, the 'Four Chords' and 'Jerry', alternated in supplying entertainment for the patrons.

"On re-cross examination, Thomas testified that he obtained the names of the bands from the advertisement in front of the premises, otherwise he would not have known their names. In response to my questioning, Thomas stated that he does not remember seeing two men at the entrance to the premises; 'there was a big crowd and everybody was looking at the bands'; 'they were three deep' and 'three deep, three rows of people in a semi-circle'. George stated that the area at the entrance to the premises was crowded.

"This case presents a conflict between the testimony of the witnesses of the defendant and the witnesses for the Division.

However, I find as a fact from the testimony of the minors and their written statements in evidence, that on June 24, 1961, they were served and consumed alcoholic beverages in defendant's licensed premises. There is no claim that the minors had any motive to accuse the licensee unjustly nor can I conceive that they would conspire against the licensee. The minors' failure to identify the particular employee or employees making the sales or services of the alcoholic beverages to them is not fatal in disciplinary proceedings, provided it be established that they purchased or were served the beer in the licensed premises. Re Chizun, Bulletin 1274, Item 7 and cases cited therein. Such service and purchase has been established by their testimony.

"After reviewing the evidence, the exhibits and the oral argument of defendant's attorney, I conclude that the Division has established the truth of the charge by a fair preponderance of the believable evidence, and I recommend that defendant be found guilty as charged. Defendant has no prior adjudicated record. It is further recommended, therefore, that an order be entered suspending the defendant's license for twenty days, the minimum penalty for sale of alcoholic beverages to three minors, all of whom are 18 years of age or over. Re Asbury Main Tavern, Inc., Bulletin 1414, Item 9."

Pursuant to Rule 6 of State Regulation No. 16, exceptions to the Hearer's Report and written argument thereto were filed with me by the attorney for the defendant.

I have read the testimony very carefully and considered the exceptions and written argument filed by the attorney of defendant with particular reference to his contentions concerning "... contradictions, inconsistencies and outright doubts of these minors." However, little if any, reference is made by the Hearer or defendant's attorney to the written statements of the minors taken by the agents the day following the alleged violations when obviously their recollections of the events of the day previous necessarily were clearer than when they testified at the hearing herein two months later, notwithstanding they had read their prior written statements before the commencement of the hearing. All the statements in question of each minor were offered in evidence by the attorney of defendant (page 129 of the transcript) and after reading the same, I am impressed with the accurate description given by each boy of the licensed premises prior to their visit to the same with the ABC agents for identification purposes. Each recalled the name of the premises, "Chatterbox", its location, its rather unusual shaped bar and particularly that special police officers were stationed at the entrance and their wrists were stamped with ink before they were admitted. Most of these facts are borne out by the testimony of the defendant's own witnesses so there is no doubt in my mind, notwithstanding some inconsistencies and contradictions by the boys on cross-examination, that they were in the licensed premises on the date alleged and were served alcoholic beverages at the time. The variations in some portions of their testimony are not of such great moment as to cause me to disbelieve the more important features of their stories which coincide with their written statements that they were sold and consumed alcoholic beverages on the licensed premises of defendant.

I so find, and affirm the Report of the Hearer.

Investigation discloses that defendant's licensed business is closed. Thus, no effective dates of suspension can be imposed at the present time. The effective dates of the suspension will be fixed by further order which will be entered by me after the licensed premises shall have been reopened for business.

Accordingly, it is, on this 6th day of December 1961,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Borough Council of the Borough of Seaside Heights to Chatterbox, Inc., t/a Chatterbox Bar & Grille, for premises on Lincoln Avenue and Boardwalk, Seaside Heights, be and the same is hereby suspended for twenty (20) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
	)	
John T. & Irene E. Manning t/a Manning's Oval Bar 74 Main Street East Orange, New Jersey	)	CONCLUSIONS
	)	AND
Holder of Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange.	)	ORDER
	)	

Defendant-licensees, by John T. Manning, A Partner.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On October 16, 1961, an ABC agent tested defendants' open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of four of the bottles varied substantially in acids and color from the contents of genuine bottles of the labeled brands.

Defendants, in attempted mitigation of penalty, disclaim any knowledge of the violation in question. Nevertheless, a licensee is held strictly responsible for any "refills" found upon the licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156.

Defendants have a prior adjudicated record. When the license was held by one of the partners (Irene E. Manning) for the same premises, her license was suspended by the local issuing authority for three days, effective November 16, 1942, for an "hours" violation. Since the dissimilar violation occurred more than five years prior to the date herein, it will not be considered in fixing the penalty in this case. I shall suspend defendants' license for twenty days, the minimum penalty imposed in "refill" cases involving four bottles. Re Harper's Bar, Inc., Bulletin 1414, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 18th day of December, 1961,

ORDERED that Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange to John T. & Irene E. Manning, t/a Manning's Oval Bar, for premises 74 Main Street, East Orange, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Tuesday, January 2, 1962, and terminating at 2:00 a.m., Wednesday, January 17, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against S. D. Perna & Sons, Inc. t/a "Hamilton Manor" w/s Black Horse Pike Hamilton Township (Atlantic Co.) PO RD #2, Mays Landing, N. J., Holder of Plenary Retail Consumption License C-18, issued by the Township Committee of Hamilton Township.

CONCLUSIONS  
AND  
ORDER

Defendant-licensee, by David Perna, Secretary David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On August 22, 1961, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of six of the bottles varied substantially in solids and color from the contents of genuine bottles of the labeled brands.

Defendant has a prior adjudicated record. Its license was suspended for five days, effective March 3, 1958, for sale to minors (Bulletin 1219, Item 5) and for twenty-five days, effective March 24, 1958, for sale to minors (Bulletin 1221, Item 2). The minimum penalty imposed in cases involving six bottles is twenty-five days. Re Johnson & Hannon, Inc., Bulletin 1378, Item 6. I shall suspend defendant's license for twenty-five days and for an additional five days because of the two dissimilar violations which occurred within the past five years. Re Richman, Bulletin 1186, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 19th day of December 1961,

ORDERED that plenary retail consumption license C-18, issued by the Township Committee of Hamilton Township to S. D. Perna & Sons, Inc., t/a "Hamilton Manor", for premises w/s Black Horse Pike, Hamilton Township (Atlantic Co.), be and the same is hereby suspended for twenty-five (25) days, commencing at 4 a.m. Monday, January 8, 1962, and terminating at 4 a.m. Friday, February 2, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS; LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Walter Schwebel  
555 Ocean Avenue  
Jersey City 5, N. J.,

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

ORDER

Defendant-licensee, Pro se.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On September 26, 1961, an ABC agent tested defendant's open stock of liquor and seized four bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of three of the bottles varied substantially in solids and acids from the contents of genuine bottles of the labeled brands.

Defendant has a prior record. Effective September 6, 1960, his license was suspended by me for fifteen days for an "hours" violation. Bulletin 1358, Item 4. Moreover, effective February 25, 1957, the license of F & S Tavern Inc. (of which defendant was then an officer) was suspended by me for five days for selling beer at less than the minimum consumer resale price. Bulletin 1160, Item 8. In attempted mitigation, defendant has advised me in writing that the violation herein was apparently committed by a bartender whom he has discharged. Nevertheless, a licensee is responsible for the acts of his agent or employee. Rule 33 of State Regulation No. 20. I shall suspend defendant's license for twenty days, the minimum penalty in cases involving three bottles (Re Hittner & Hodes, Bulletin 1420, Item 6), to which five days will be added for the two dissimilar violations within the past five years (Re Hafner, Bulletin 1378, Item 3), making a total suspension of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 19th day of December 1961,

ORDERED that plenary retail consumption license C-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Walter Schwebel, for premises 555 Ocean Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, January 2, 1962, and terminating at 2 a.m. Monday, January 22, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )  
John Meszaros )  
t/a Hideaway Bar )  
679 Palisade Avenue )  
Cliffside Park, N. J., )  
Holder of Plenary Retail Consumption )  
License C-18, issued by the Mayor and )  
Council of the Borough of Cliffside )  
Park. )  
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CONCLUSIONS  
AND  
ORDER

Joseph C. Woodcock, Jr., Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents, in violation of Rule 27 of State Regulation No. 20.

On September 29, 1961, an ABC agent tested defendant's open stock of assorted brands of liquor and seized three bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottles varied substantially in solids and acids when compared with genuine products of the named brands.

Defendant has no prior adjudicated record. I have considered defendant's statement submitted by his attorney in alleged mitigation of the violation and find nothing therein which would warrant imposition of less than the minimum penalty. I shall suspend his license for twenty days, the minimum penalty imposed in "refill" cases involving three bottles. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re DiGiacomo & Grande, Bulletin 1269, Item 7.

Accordingly, it is, on this 19th day of December 1961,

ORDERED that plenary retail consumption license C-18, issued by the Mayor and Council of the Borough of Cliffside Park to John Meszaros, t/a Hideaway Bar, for premises 679 Palisade Avenue, Cliffside Park, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Tuesday, January 2, 1962, and terminating at 3 a.m. Wednesday, January 17, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SAMUEL BERELMAN, INC.  
t/a CINDY'S BAR  
629 Ferry Avenue  
Camden 4, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-84, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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Michael Melissas, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

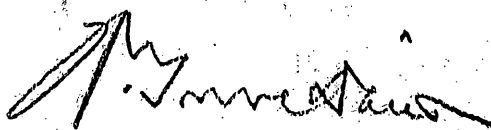
Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On October 24, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized four bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of two of the bottles, when compared with the contents of genuine bottles of the same brands, varied substantially in acids and solids.

Defendant has no prior adjudicated record. In attempted mitigation defendant's attorney alleges that the violation was apparently committed by an employee without the knowledge or consent of the officers of defendant corporation. Nevertheless, a licensee is responsible for any "refills" found upon the licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156. I shall suspend defendant's license for fifteen days, the minimum penalty in cases involving two bottles. Re Rost, Bulletin 1420, Item 5. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 28th day of December 1961,

ORDERED that Plenary Retail Consumption License C-84, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Samuel Berelman, Inc., t/a Cindy's Bar, for premises 629 Ferry Avenue, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 8, 1962 and terminating at 2:00 a.m., Thursday, January 18, 1962.

  
William Howe Davis  
Director